

### **REMARKS / ARGUMENTS**

The disclosure is objected because of the following informalities:

It is required to update related application serial numbers and remove the Attorney Docket No. in the specification (see pages 1 and 20, some other pages). The Applicant has amended paragraphs [01] and [58] of the specification to include updated related application serial numbers. The Applicant has further amended paragraph [51] to correct minor typo error without adding new matter to the specification and therefore respectfully submits that the specification objections are in compliance.

The present application includes pending claims 1-31, all of which have been rejected. By this Amendment, claims 2-8, 12-18 and 21-28 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

#### **I. The Proposed Lee et al. Does Not Render Claims 1-7, 10-17 and 20-27 Unpatentable**

The Applicant turns to the rejection of claims 1-7, 10-17 and 20-27 under 35 U.S.C. § 102(e) as being anticipated by Lee et al. (US Application 2004/0039817, hereafter "Lee").

**A. Rejection of Independent Claim 1, 11 and 21**

With regard to the rejection of original independent claim 1 under 102(e), the Applicant respectfully traverses the 102(e) rejection. The Applicant submits that Lee does not disclose or suggest at least the limitations of **“allocating a processor compatible with said determined protocol; and processing said communication signal by said allocated processor”** as recited by the Applicant in the currently amended independent claim 1.

MPEP 2131 states that “[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See MPEP at 2131 (internal citation omitted). Furthermore, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” See *id.* (internal citation omitted).

In the Office Action, the Examiner states the following:

Lee discloses a method [and a system] for providing communication in a multi-band, multi-protocol hybrid wired/wireless network, the method comprising:

determining a protocol (selecting one of 802.11, see 110-114 fig. 1 and ¶.29) associated with a communication signal for an access point (signal, see ¶.35);

allocating a processor compatible with the determined protocol (selecting APs with processor for processing one of 802.11 protocol, see 110-114 fig. 1 and ¶.29); and

processing the communication signal by the allocated processor (next step of 138 fig. 1 and ¶.35).

See the office Action at page 2.

Firstly, the Applicant submits that the disclosure or teaching of **“allocating a processor”** recited in claim 1 by the Applicant is nowhere found in Lee.

Subsequently, there is no teaching or disclosure of **“allocating a processor compatible with said determined protocol (i.e., 802.11(a), 802(b), 802.11(g))”**. Instead Lee teaches that the wireless station searches for a particular operation mode (i.e., one of the protocols of 802.11(a), 802(b), 802.11(g)) in the Access Points (See Lee ¶. 29). Also Lee in ¶. 28 explains that the wireless station searches the APs for the same configuration for the purpose of matching with the particular AP having the same assigned SSID. Specifically:

**“If an SSID is configured, then the station only chooses APs with a matched SSID.”** (See Lee ¶.28).

**“in steps 108, 110, 112 and 114, the wireless station checks to see if a particular operation mode (i.e., 802.11(a), 802(b), 802.11(g)) is configured for it. If there is no specific configuration, the station searches APs (Access Points) for all available modes. However, if the station is configured for a particular mode, the station only searches APs within that mode.”**  
(See Lee ¶.29)

Furthermore, Lee discloses or teaches that if the station does not find an AP with the same particular configuration, the station chooses the best AP using scanning **based on RSSI value and channel loading**. There is no teaching of **“allocating a processor compatible with said determined protocol”**.

Specifically, Lee teaches:

**“If active scanning, the station in step 122, performs an active scan in the appropriate frequencies and obtains or measures the necessary information, i.e. received signal strength indication (RSSI) value and network or channel loading, for subsequent, access point selection.”** (See Lee ¶.35)

Secondly, the Applicant submits that Lee's lack of teaching of an allocated processor results in Lee's further lack of any teaching or disclosure of **"processing said communication signal by said allocated processor"**.

Therefore, the applicant submits that Lee does not disclose or teach the limitation of **"allocating a processor compatible with said determined protocol; and processing said communication signal by said allocated processor"** as recited by the Applicant in claim 1.

Accordingly, independent claims 11 and 21 are similar in many respects to the method disclosed in the independent claim 1 and therefore are also allowable for the same rationale as in the currently amended claim 1. Therefore, the Applicant respectfully requests that the 35 USC 102(e) rejections of independent claims 1, 11 and 21 be withdrawn.

#### **B. Rejection of dependent Claim 2**

The currently amended claim 2 depends from independent claim 1 and is, consequently, also respectfully submitted to be allowable for at least the same reasons discussed above with respect to claim 1.

#### **C. Rejection of dependent Claim 3**

The Examiner submits that Lee discloses, "wherein the allocating further comprises updating the processor to be capable of the processing of the communication signal" (See Lee step 122 Fig.1). The Applicant submits that Lee nowhere discloses "said **allocating** comprises **updating** said processor to be

capable of said **processing of said communication signal**" as recited in the currently amended claim 3.

Lee instead teaches in step 122 "performs an active scan in the appropriate frequencies and **obtains or measures** the necessary information i.e. received signal strengths indication (RSSI) value and network or **channel loading**, for subsequent, access point selection." Hence, the Applicant submits that Lee's does not teach **allocating comprises updating** the processor to process communication signals that is dynamic and changes **according to the signal protocol code**.

Additionally, claim 3 depends from dependent claim 2, and indirectly depends from independent claim 1 and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

#### **D. Rejection of dependent Claim 4**

The Examiner submits that Lee discloses, "wherein the updating further comprises downloading protocol code compatible with the determined protocol to the processor" (inherent to access one of 802.11 protocols, see Lee ¶.29). The Applicant submits that Lee nowhere discloses that the wireless station's processor can perform "**updating comprises downloading protocol code**" as recited in the currently amended claim 4. Instead, Lee discloses "the wireless station checks to see if a particular operating mode (i.e., 802.11(a), 802(b), 802.11(g)) is configured for it. If there is no specific configuration, the station

searches APs for all available modes.” (See Lee ¶.29). There is no implication of downloading protocol code in the processor. Additionally, Lee teaches the station searches for APs by scanning based on RSSI and channel loading (See Lee ¶.35).

Hence, the Applicant submits that Lee does not teach or disclose “wherein the **updating further comprises downloading protocol code compatible with the determined protocol to the processor**” as recited in claim 4 by the Applicant by downloading protocol code.

Additionally, claim 4 depends from the dependent claim 3, and indirectly depends from independent claim 1, and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

#### **E. Rejection of dependent Claim 5**

The Examiner submits that Lee discloses, “further comprising storing the compatible protocol in a memory (inherent to save the protocol code in a not shown memory” (see Lee fig. 1 and ¶.29). The Applicant submits that Lee instead teaches **storing the RSSI and QBSS** data in each channel (See Lee ¶.29). Lee no where discloses “**storing the compatible protocol in a memory**” as recited in the currently amended claim 5.

Additionally, claim 5 depends from dependent claim 4, and indirectly depends from independent claim 1 and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

**F. Rejection of dependent Claim 6**

The Examiner submits that Lee discloses, “wherein the downloading further comprises retrieving the compatible protocol code from a portion of the memory” (retrieve to configure, see Lee ¶.29).

“If there is no specific configuration, the station searches APs for all available modes. However, if the station is configured for a particular mode, the station only searches APs within that mode.” (see Lee ¶.29).

The Applicant submits that Lee in ¶.28 and ¶.29 instead teaches searching all available APs Lee to match the station’s SSID and also configuration. If none found, Lee teaches the station searches for available APs by scanning based on RSSI and channel loading (See Lee ¶.35).

Additionally, claim 6 depends from dependent claim 5, and indirectly depends from independent claim 1 and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

**G. Rejection of dependent Claims 7**

The Examiner submits that Lee discloses, “further comprising associating the determined protocol code with the portion of the memory” (store obtained information, see Lee ¶.35). The Applicant submits that Lee instead “obtains or measures the necessary information, i.e. received signal strength indication (RSSI) value and network or channel loading, for subsequent access point selection.” (see Lee ¶.35). Lee does not teach or disclose, “**downloading**” or

**“retrieving the compatible protocol code from a portion of the memory”** as recited in the currently amended claim 7.

Additionally, claim 7 depends from dependent claim 6, and indirectly depends from independent claim 1 and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

**H. Rejection of dependent Claim 10**

The Examiner submits that Lee discloses, “wherein the protocol is one of an 802.11a, 802.11b, 802.11g and Bluetooth protocol (see Lee ¶1.11). The Applicant submits that Lee does not disclose Bluetooth protocol. In addition, claim 10 depends from independent claim 1 and is allowable for the same rationale as in claim 1, consequently, also respectfully submitted to be allowable.

**I. Rejection of dependent Claims 12-17 and 20**

The Applicant submits that claims 12-17 and 20 are claims which corresponds to the arguments in claims 2-7 and 10 respectively and depends indirectly from independent claim 11 which is allowable for reasons similar to the independent claim 1. Therefore claims 12-17 and 20 are allowable for the same rationale as in claim 11, consequently, also respectfully submitted to be allowable.

**J. Rejection of dependent Claims 22-27**

The Applicant submits that claims 22-27 are claims which corresponds to the arguments in claims 2-7 respectively and depends indirectly from the



independent claim 21 which is allowable for reasons similar to the independent claim 1. Therefore claims 22-27 are allowable for the same rationale as in claim 21, consequently, also respectfully submitted to be allowable.

**II. The Proposed Combination of Lee in view of Schmidt Does Not Render Claims 8, 9, 18, 19 and 28-31 Unpatentable**

The Applicant turns to the rejection of claims 8, 9, 18, 19 and 28-31 under 35 U.S.C. § 103(a) as being anticipated over Lee in view of Schmidt (US 7,058,040, hereafter "Schmidt").

The Examiner submits in the Office Action that for claim 8, Lee lacks what Schmidt discloses, "further comprising tuning at least one transceiver device to at least one of a receive and a transmit frequency associated with the communication signal (col 4, lines 14-16).' Therefore, according to the Examiner, it would have been obvious for one skilled in the art at the time of applicant's invention to apply a transceiver taught by Schmidt into the system of Lee in order to tune a transmit frequency for better/optimum performance. See the office Action at page ?.

The Examiner also submits in the Office Action that claim 9, Lee lacks what Schmidt discloses, "wherein the processor is a digital signal processor (DSP) (See Lee 153 fig. 2A and col 5, lines 51-56)." Therefore, according to the Examiner, it would have been obvious for one skilled in the art at the time of applicant's

invention to apply a DSP taught by Schmidt into the system of Lee in order to have embedded functions in the DSP since DSP is a special purpose CPU used for digital signal processing applications to provide ultra –fast instructions sequences. (See the office Action at page 5).

The Examiner further submits in the Office Action that claims 18, 19, 28, 29 and 30 correspond to claims 8, 9, 8, 9 and 10, respectively, and are therefore rejected for the similar reasons set forth in the rejection of the claims.

The Examiner also submits in the Office Action that regarding claim 31, Lee discloses, “wherein the at least one integrated transceiver utilizes a single protocol stack for processing the communication signal for the 802.11a, 802.11b and 802.11g protocols (see Lee ¶.11), but lacks what Schmidt discloses, “Bluetooth protocol (col 1, line 31).” Therefore, according to the Examiner, it would have been obvious to one of ordinary skill in the art at the time of applicant’s invention to include Bluetooth protocol taught by Schmidt into the stack of lee in order to provide more options clients looking Bluetooth technology which is available at the time of invention. (See the Office Action pages 4-6)

The Applicant draws the Examiner’s attention to the following citation in the MPEP:

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference

or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) **must teach or suggest all the claim limitations**. The teaching or suggestion to make the claimed combination and the reasonable expectation of success **must both be found in the prior art** and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 706.02(j)(D).

The Applicant submits that combining Lee and Schmidt do not teach all the claim limitations of “determining a protocol associated with a communication signal for an access point; **allocating a processor compatible with said determined protocol; and processing said communication signal by said allocated processor**” as recited by the Applicant in the independent claim 1, as Schmidt does not make up for the deficiencies in Lee.

Additionally, the Applicant submits that Claims 8, 9, 18, 19 and 28-31 depend from independent claims 1, 11 and 21 respectively, and are allowable for at least the same rationale discussed above with respect to claim 1. Consequently, the Applicant respectfully request the rejections be withdrawn.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-31.

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Reply to Office Action of May 7, 2007

### **CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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